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## EXTRAORDINARY

### PART II—Section 2

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### LOK SABHA

The following report of the Joint Committee on the Bill to prescribe punishment for the practice of "Untouchability", for the enforcement of any disability arising therefrom and for matters connected therewith, was presented to Lok Sabha on 3rd December, 1954:—

### Composition of the Joint Committee

#### LOK SABHA

1. Shri Upendranath Barman—*Chairman*.
2. Shri Narayan Sadoba Kajrolkar.
3. Shri T. Sanganna.
4. Shri Pannalall Barupal.
5. Shri Naval Prabhakar.
6. Shri Ajit Singh.
7. Shri Ganeshi Lal Chaudhary.
8. Shri Bahadurbhai Kunthabhai Patel.
9. Shrimati Minimata.
10. Shri Motilal Malviya.
11. Shri Dodda Thimmaiah.
12. Shri Rameshwar Sahu.
13. Shri M. R. Krishna.
14. Shri Ram Dass.
15. Shri Nemi Saran Jain.
16. Pandit Algu Rai Shastri.
17. Shri Shree Narayan Das.
18. Shri S. V. Ramaswamy.
19. Shri Resham Lal Jangde.
20. Shri Balwant Nagesh Datar.

21. Shri P. T. Punnoose.
22. Shri Mangalagiri Nanadas.
23. Shri P. N. Rajabhoj.
24. Rt. Rev. John Richardson.
25. Shri A. Jayaraman.
26. Shri V. G. Deshpande.
27. Shri B. S. Murthy.
28. Shri Vijneshwar Missir.
29. Shri R. Velayudhan.
30. Shri N. M. Lingam.
31. Shri Mohanlal Saksena.
32. Shri N. C. Chatterjee.
33. Dr. Kailas Nath Katju.

RAJYA SABHA

34. Shrimati Lilavati Munshi.
35. Shrimati Bedavati Buragohain.
36. Shri Alluri Satyanarayana Raju.
37. Dr. N. S. Hardiker.
38. Shri V. M. Surendra Ram.
39. Shri Kishori Ram.
40. Shri Ram Prasad Tamta.
41. Thakur Bhanu Pratap Singh.
42. Shri Trimbak Damodar Pustake.
43. Shri Jagannath Das.
44. Shri Nanabhai Bhatt.
45. Kakasaheb Kalelkar.
46. Shri M. Satyanarayana.
47. Shri Surendranath Dwivedy.
48. Shri N. C. Sekhar.
49. Shri Narsingrao Balbhimrao Deshmukh.

DRAFTSMAN

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri M. Sundar Raj, *Deputy Secretary.*  
Shri P. K. Patnaik, *Under Secretary.*

### Report of the Joint Committee

1. The Chairman of the Joint Committee to which the \*Bill to prescribe punishment for the practice of untouchability or the enforcement of any disability arising therefrom was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 15th March, 1954. The motion for reference of the Bill to a Joint Committee of the Houses was moved by Dr. Kailas Nath Katju on the 26th August, 1954, discussed in the House on the 26th, 27th, 30th and 31st August, 1954, and adopted on the 31st August, 1954.

3. The Rajya Sabha discussed the motion on the 14th, 16th and 17th September, 1954, and concurred in the said motion on the 17th September, 1954.

4. The message from Rajya Sabha was read out to the Lok Sabha on the 20th September, 1954.

5. The Committee held nine sittings in all.

6. The first sitting of the Committee was held on the 29th September, 1954, to draw up a programme of work. The Committee, at this sitting, decided to invite memoranda from public bodies, associations or individuals desirous of presenting their suggestions or views in connection with the Bill, by the 21st October, 1954, and to hear their evidence if necessary. A Press communique was accordingly issued.

7. The Committee heard the evidence tendered by the representatives of the following associations on the 2nd November, 1954:—

(1) The Bharatiya Depressed Classes League, New Delhi.

(2) The Harijan Sevak Sangh, Delhi.

The Committee have decided to lay on the Table of the House a copy of the evidence tendered *in extenso*.

8. The Committee took up clause by clause consideration of the Bill on the 3rd November, 1954, which was continued at further sittings on the 4th and 5th November, 1954 and concluded on the 6th November, 1954.

9. A motion for extension of time for presentation of the report of the Committee upto the 4th December, 1954, was moved in the Lok Sabha on the 18th November, 1954, and adopted.

10. The Committee considered and adopted the report on the 27th November, 1954.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

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\*Published in Part II—Section 2 of the *Gazette of India, Extraordinary*, dated the 15th March, 1954.

12. *Clause 1.*—The Committee consider that the provisions of the Bill should be extended to the State of Jammu and Kashmir also. The Constitution (Application to Jammu and Kashmir) Order, 1954, made on the 14th May, 1954, has provided for the application of Articles 17 and 35 of the Constitution to that State.

Sub-clause (2) has therefore been amended accordingly.

13. *Clause 2.*—The Committee have discussed at length as to whether the expression “untouchable” used in the Bill should be retained or substituted by any other appropriate word or words. On the one hand the legality and propriety of the use of the expression particularly in view of the abolition of “Untouchability” under Article 17 of the Constitution and on the other hand the apprehension that deletion of the word might leave loopholes and the purpose of the Bill might be defeated were considered. The Committee are of opinion that the deletion of the expression ‘untouchable’ would not stand in the way of attaining the object of the Bill.

The definition of “untouchable” along with the two “Explanations” thereto has been omitted.

14. *Clause 3.*—The Committee feel that in view of their decision not to use the expression ‘untouchable’, this clause needs suitable revision. Moreover, the language of the clause should conform to similar provisions used in penal statutes. It was also considered necessary to make it clear that both the right of entry to a place of public worship as well as the right to offer worship therein are secured.

The clause has therefore been redrafted accordingly.

An explanation has been added to the clause which is intended to provide that if a sectional temple is open to other Hindus then no person professing the same religion should be prevented from enjoying similar rights on the ground only of “untouchability”. This explanation has also been made applicable to clause 4.

15. *Clause 4.*—The Committee are of the view that sub-clause (a) should be omitted because the object of this sub-clause is already secured by Articles 15 and 16 of the Constitution.

The Committee also feel that the provisions of sub-clause (b) should be slightly amplified and certain other forms of the practice of “untouchability” added.

The clause has accordingly been revised.

16. *Clause 5.*—The Committee feel that a provision should be added in respect of discrimination after admission to any of the institutions mentioned in the clause.

The clause has accordingly been amended.

17. *Clause 6.*—The Committee considered the view point urged in the evidence tendered before them that although there may not be complete refusal to sell goods or render services to a person on the ground only of “untouchability” there may be cases of refusal to sell goods or render services at the same time and place and on the same

terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business.

The Committee feel that suitable provisions should also be made therefor.

The clause has therefore been suitably amended.

18. *Clause 7: (Original Clause 8).*—The Committee feel that clauses 3 to 6 should be made self-contained with the penalty specified in each clause, and that clause 7 should be suitably revised in the light of amendments to clauses 3 to 6.

The revised clause 7 provides for punishment for social and economic boycott as well as for preaching or propagating practice of "untouchability".

19. *Clause 8 (Original Clause 10).*—This clause corresponds to original clause 10 of the Bill. Only a minor drafting change has been done.

20. *Clause 9 (Original Clause 11).*—This clause corresponds to original clause 11 of the Bill.

21. *Clause 10 [Original Clause 8(3)].*—This clause corresponds to sub-clause (3) of the original clause 8 of the Bill. It has become necessary to make this a separate clause in view of the revised form of clauses 3 to 7.

22. *Clause 11 (New Clause).*—The Committee considered at length the question of sufficiency of the quantum of punishment provided for in the Bill. It was stressed before the Committee that this being a social legislation, provision for enhanced punishment might lead to disturbance of peace and harmony of the rural life. On the other hand it was feared that without provision for deterrent punishment, the object of the Bill might be defeated. Provision is therefore considered necessary for making it obligatory upon a court to impose a sentence of both imprisonment and fine in the case of a second or subsequent offence.

This has accordingly been provided in this clause.

23. *Clause 12 (New Clause).*—This is a new clause. It has been inserted with a view to shift the burden of proof from the prosecution to the accused where any act constituting an offence under this Bill is committed in relation to a member of a Scheduled Caste as defined in clause (42) of Article 366 of the Constitution.

24. *Clause 13 (Original Clause 7).*—The clause has been slightly modified in view of omission of the definition of 'untouchable'. Some drafting changes of minor character have also been made.

25. *Clause 14 (Original Clause 9).*—This clause corresponds to original clause 9 of the Bill.

26. *Clause 15 (Original Clause 13).*—The Committee discussed the question as to whether the offences under this legislation should be made compoundable or not. It was felt that if the provisions of the

Bill are made strict, they may defeat the very object of the Bill. Therefore the Committee are of opinion that the offences under this Act should be made compoundable with the permission of the Court.

The clause has accordingly been amended.

27. *Clause 16 (Original Clause 12).*—This clause corresponds to original clause 12 of the Bill.

28. *Clause 17 (Original Clause 14).*—This clause has been slightly amended. For the sake of uniformity, the State enactments specified in the schedule have been repealed *in toto*.

29. *The Schedule.*—The Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950, has been added to the Schedule. This was an omission in the original schedule.

30. It is the consensus of opinion of the Committee that when this legislation comes into force the Central Government and the State Governments should appoint Committees to look into the implementation of the Act.

31. The Committee would further like to recommend that adequate steps should be taken by the Central Government and the State Governments on the administration side of the Act to see that the spirit of the Act is fully implemented.

32. The Joint Committee recommend that the Bill as amended be passed.

UPENDRANATH BARMAN,

*Chairman,  
Joint Committee.*

NEW DELHI;

*The 30th November, 1954.*

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### Minutes of Dissent

#### I

Although the Bill as amended by the Joint Committee is a distinct improvement on the measure introduced in the House and the mandate of the Constitution in its letter and spirit has been to a large extent implemented by this Bill, yet mere enactment of legislation will hardly achieve the desired objective, unless social conscience is active in the States and the Governments and the people in all the States make conscious efforts to eradicate disabilities and to translate the measure into action. This measure was overdue having regard to the provisions of Article 17 of the Constitution of India. The Constitution clearly declared that 'Untouchability' was abolished and its practice in any form was forbidden. But it is a matter of regret that this blot on Hinduism still persists and its practice has not yet been weeded out in all parts of India. In different parts of the country Harijan brothers and sisters are still being subjected to discrimination and humiliating practices. This is the cancer which is eating into the

vitals of Hindu society and the guaranteed freedom of equality will be a dead letter unless the public are vigilant and active.

Article 17 further prescribes that the enforcement of any disability arising out of 'Untouchability' shall be an offence punishable in accordance with law. Under Article 35 of the Constitution the Parliament has exclusive power of prescribing punishment for those acts which are declared to be offences under Part III of the Constitution and Parliament was enjoined by that Article to make laws for prescribing punishments for such acts. It was pointed out in the Report of the Commissioner for Scheduled Castes and Tribes that in spite of the fact that the problem of untouchability is still of magnitude, the number of cases reported to the police and filed in the Courts against the practice of this evil in the country is comparatively very small. The reason for this is that the people belonging to the Scheduled Castes are too much dependent on their better placed brethren and often do not dare to go to the Police or the Courts of law for the redress of their grievances. The Commissioner has further pointed out that the information collected from the State Governments shows that there has been no appreciable improvement with regard to the practice of untouchability.

*Clause 17.*—Twenty-one statutes passed by State Legislatures and directed towards the removal of social and religious disabilities enforced in different States are being repealed by this clause. I regret to express my dissent from this provision adopted by the Joint Committee. During the course of the discussions in the Joint Committee it was not possible to scrutinise the provisions of the 21 statutes mentioned in the Schedule. The discussion proceeded on the footing that the original clause in the Bill would be retained and the existing statutes in the different States would be operative in spheres where this Bill makes no provision. There may be regional disabilities or particular social practices from which the Scheduled Castes suffer in different areas for which provisions have been made in these Statutes. It would not be right for the Parliament to repeal all these Statutes.

I would suggest that the following clause should be substituted in place of clause 17:—

*"Repeal.*—The enactments specified in the Schedule are hereby repealed to the extent to which any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions contained herein."

N. C. CHATTERJEE.

NEW DELHI;

The 28th November, 1954.

## II

The Bill as emerged from the Joint Committee is much improved and is made almost perfect. However I disagree with para 23 of the Report regarding clause 12. It is a principle of jurisprudence that the burden of proof is always on the prosecution and never on the accused. There is always a presumption of innocence in favour of the accused until he is proved guilty. I am afraid if this clause is passed there

may be people who may bring frivolous complaints which may prove to be a cause of unnecessary harassment; because even if the case is not proved the complainant has nothing to lose.

LILAVATI MUNSHI.

NEW DELHI;  
*The 29th November, 1954.*

### III

It is a great day for all those who regarded untouchability as the greatest obstacle in the emergence of a strong and united Hindu Nation. The Constitution of India had abolished untouchability but this Bill will give practical shape to the aspirations of a large number of the social reformers in the country. This was the work for which Maharshi Dayanand and Veer V. D. Savarkar devoted their whole lives. It is true that untouchability will not be abolished by passing legislation only. The social reformers will have to carry on the work with singleness of purpose for years to come.

However, I do not agree with the explanation to clause 3. The definition of "Hindu" given in the explanation is neither scientific nor exhaustive. It may give rise to many difficulties and confusion of so many sects and sub-sects that a list however elaborately prepared, is bound to be defective and will lead to confusion and heart-burning. I, therefore, propose that in addition to giving the list of different sections of the Hindus, the following words should be added "and all others who profess religion of Indian origin." If this definition is given, no section of Hindu can escape from the operation of this Act. And no member of Scheduled Caste will be denied access to places of public worship under any subterfuge.

V. G. DESHPANDE

NEW DELHI;  
*The 29th November, 1954.*

### IV

I am forced to write a note of dissent to the Untouchability (Offences) Bill as I feel sincerely and seriously that the Bill as amended instead of improving the original one has taken the shape of a half hearted and halting measure. In my opinion the original Bill was far better drafted to serve the objective in view.

The articles 15, 16, 17, 19, 25 and 29 of the Constitution of India covering the fundamental rights of citizens of the Republic have to be taken into full account when specific legislation is to be enacted on the basis of article 17 of the Constitution. According to article 17 of the Constitution, untouchability is abolished. "The enforcement of any disability arising out of untouchability shall be an offence punishable under law" is the directive given by the Constitution. It is my considered view that the very letter and spirit of the wordings of this clause in the Constitution have not been taken seriously into account by the Joint Committee. The Bill as amended will not therefore serve

the purpose of amplifying and implementing the solemn declaration contained in article 17. The Constitution itself does not define as to who is an untouchable and what is untouchability. So it was essential that these terms should be defined in the implementing Act. Further whatever disabilities could be said to arise out of untouchability should be logically enumerated. It is then that implementation becomes possible.

The amended Bill omits the definition of untouchable contained in the original Bill. The presumption clause 12 is neither a substitute nor a definition nor does it cover cases where persons by custom or usage are treated as untouchable and discriminated against. In the various clauses 3, 4 and 6 the expression 'the same religion, the same religious denomination etc.' makes it possible for the would-be offender to say that the person discriminated against does not belong to that religion at all or to say that at the time of the committal of the offence, he did not know that he belonged to that religion. To illustrate, an untouchable could be kept out or the offender could be made to go unpunished by the defence on the plea that the accused was a Hindu, and that the accused thought that the complainant was not a Hindu at all and hence excluded him. This defect can only be remedied if first untouchability is defined, of course after defining the word untouchable and then the particular offences are set out. Further a presumption must be stated that the untouchables are supposed to be known to belong to the particular religion to the body of which they are attached. The explanation to clause 3 simply makes it a matter of legal presumption that all the different forms and practices of religion enumerated there are the same. But the fact that the untouchable is also known to be of the same religion is not made clear in the explanation. It should be clearly stated that the accused is presumed to know that the complainant (here the untouchable) is of the same religion as the accused.

In clause 4, in sub-clause (a) the word 'enforces' is used. This excludes subtle threats, invocation of divine displeasure and inducements as 'enforces' in its grammatical meaning can only mean doing it by employment of force and definition of 'force' in the Indian Penal Code would not cover the above. The same thing applies to the word "compels" used in sub-clause (b) of the same clause.

In clause 5 an act must be clearly defined to include an omission also. The expression 'Whoever by any act or omission discriminates against any person etc.' should be used since in such institutions after admission there would be more hardships caused by omitting to do certain necessary things than by positive act *e.g.*, refusing to give medicine, not supplying books etc.

In clauses 3, 4, 5, 12 and 13 the words 'on the ground only of untouchability' or 'only of untouchability' occur as the presumption part of the clauses. The expression 'on the ground only of untouchability or only of untouchability', when coming to legal explanation, is very vague, and ineffective too, especially when the word 'untouchability' is not defined at all in the Bill. The vicious effect of the word 'only' in clauses 3, 4, 5 and 13 could have been mitigated by the presumption clause 12 if there at least the word 'only' in the words 'on the ground only of untouchability' would not have found a place. Further in

order to add insult to injury, the word 'unless the contrary is proved' also is inserted in the presumption clause 12.

There was a suggestion to make the law non-compoundable but that was not accepted. In clause 15(b) of the amended Bill it is given that the prosecutions arising out of the measure are to be compoundable. This takes away the whole advantages arising out of the legislation. It should be known that the accused in such cases will be always having more influence and social position than the complainant. All kinds of inducement, pull and influence could be brought against the complainant by the accused. In such circumstances the cases should have been brought under non-compoundable category by legislation.

In the amended Bill, clause 12 of the original Bill is inserted as clause 16. This is an overriding law over the other similar legislative measures that existed in the States, but at the same time does not take away the right of enforcing the laws of the States which are more comprehensive and which provide for the total customs and practices varying from State to State. In order to corroborate this point, the Repeal Clause in the original Bill was limited 'to the extent to which they or any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions'. But in the amended Bill, the Repeal Clause 17 is completely changed from the original with the result that it cut at the very root of the various progressive social legislations enacted in the various States, by repealing all those Acts *in toto*. I wonder how the overriding and the repeal clauses 16 and 17 of the amended Bill complement each other as clauses 12 and 14 of the original Bill stood. Now there is a contradiction between clauses 16 and 17 of the amended Bill whereas no such contradiction existed in similar clauses 12 and 14 of the original Act.

The solemn declaration in the Constitution abolishing untouchability and the consequential provisions in the Bill for punishing the practice of untouchability have been necessary, because social movement and progress in the direction have been very slow. So unless this Bill which by its clarity and strictness and by the drastic punishment that it must provide strongly deters the practice of untouchability, no useful purpose would be served by having one more formal Act in the book. As it is, the bulk of the machinery that will prosecute for these offences and are charged with punishing belong to the offending class. Unless the provisions in the Act are stringent and even arbitrary, if need be, there will not be much deterrent effect. When we are prepared to act radically in other economic and social spheres to achieve progress the approach must be equally radical in this respect also.

Article 17 of the Constitution which abolished untouchability is a national act and a national declaration. The laws to implement this should adhere to the faith behind this solemn decision. But I wish to emphasise here that even behind this solemn decision of the Constitution makers was the spirit of the greatest revolutionary of this:

age—The Father of the Nation. The Bill as amended lacks his spirit. It has omitted and ignored that spirit completely. The Bill as amended should be circulated for public opinion and be referred again to another Select Committee representing the main interests concerned.

R. VELAYUDHAN

NEW DELHI;

*The 29th November, 1954.*

## V

The legislative measure to put an end to the practice of untouchability is welcome. But this amended Bill has made that purpose quite ineffective.

2. That is done by way of removing the word “untouchable” and the *Explanation* on Page 2 of the original draft (as introduced in the Lok Sabha).

3. This has totally undermined the purpose of the Bill. Hence I find it difficult to agree with the report of the Joint Committee.

4. In order to make the Bill a real penal measure to eradicate the practice of untouchability, the community or persons against whom untouchability is being practised should be specifically mentioned. So also it is necessary to specify the persons who will benefit by it. These two matters are of vital importance, so far as measures like this Bill are concerned. Unless the word “untouchable” and the original explanation are retained in the Bill, the Bill will not have the desired effect. Hence I dissent from the Report.

N. C. SEKHAR

NEW DELHI;

*The 29th November, 1954.*

## VI

One general consideration, I should wish both the Houses of Parliament to give serious thought to.

Social legislation is meant to endorse new concepts of social justice, which an overwhelming majority of the nation has arrived at. It is easy enough for us to whip ourselves into a fury of righteous indignation, but it is always safe to have mild punishments. The ultimate aim is not to punish reactionaries but convert them, with the aid of Law, to a new conception of social well-being.

Under the present set-up of political ideals democracy feels that it is all powerful and can legislate on anything, if there is an overwhelming body of public opinion to back it. In former times, when Governments were not so strong and society functioned more vigorously under a commonly accepted social standard, social sanctions were more powerful and more commonly used; and, from the point of view of human civilisation and culture, social sanctions are more to be

valued than crude governmental sanctions of fine, punishment, confiscation, capital punishment etc.

But, unfortunately, society lost its high standard of public life, and the various castes misused their birth-right of using social sanctions. The nation, therefore, with a higher standard of public life, has found it necessary to control and curb the birth-right of society of using social sanctions; with the result that we use crude remedies to check the misuse of more civilised social sanctions. This is inevitable; and yet, we must guard against the same pitfall in which society has fallen. We cannot imitate social fanatics that use social sanctions indiscriminately by using legal sanctions in the same indiscriminate way.

Punishment meted out to persons resorting to social boycott should not be so very harsh. Let us not destroy social conscience by suppressing it on the strength of legislative conscience.

KAKA KALELKAR

NEW DELHI;

*The 29th November, 1954.*

## VII

The enactment of a comprehensive law to penalise the age-long practice of untouchability is a difficult matter. The present Bill is only an honest attempt to penalise this evil practice so far as it appears in public conduct.

The use of the word "untouchable" in the Bill has been avoided to bring it in conformity with the Constitution which has declared as a fact the abolition of untouchability since 26th January, 1950. Moreover, it appears cruel and even incorrect to dub a man as untouchable only because some persons may in their ignorance observe the vice of untouchability against such man.

Some doubts have been expressed as to the legality of penalising a person who may be carrying on any profession by way of providing some service like hair-cutting, catering, teaching etc. if such a person discriminates between his customers. It is a ticklish question. For instance, if a hair-cutting saloon or a cafe bears a sign-board stating that Harijans and Muslims are not served here, it would be debatable if such a thing can be penalised under the Constitution. But on the strength of the good sense of the general public and with the idea that the courts would give broad-based interpretation to the Constitution in order to accelerate social justice some provisions of this nature have been included in the Bill.

In respect of entry into temples, there seems to be some confusion. The consensus of opinion in the Joint Committee was that the Harijans should have the same rights of entry or worship in all the Hindu temples including those of Jains and Sikhs etc. as any other Hindu may have in that respect. Generally a Hindu has a right of access to Hindu temples of all denominations, but has a right of worship only in the temple which belongs to the particular faith which such Hindu professes. To my mind clause 3 of the Bill as it now stands

can be interpreted to give a Hindu or a Harijan a right of worship even in a temple which may not be of the same denomination as to which such Hindu or Harijan belongs. Although this is a very petty matter yet among the orthodox people it can be magnified as something encroaching upon their religion. I would, therefore, like this clause to be re-examined in this light so that the language may be suitably amended as to give unequivocal expression to the intentions of the Joint Committee correctly.

NEMI SARAN JAIN

NEW DELHI;

The 30th November, 1954.

## THE UNTOUCHABILITY (OFFENCES) BILL, 1954

(AS AMENDED BY THE JOINT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee; asterisks indicate omissions.)

BILL No. 14 B OF 1954

*A Bill to prescribe punishment for the practice of "Untouchability", for the enforcement of any disability arising therefrom and for matters connected therewith.*

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Untouchability (Offences) Act, 1954.

(2) It extends to the whole of India. \* \* \* \* \*

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) 'hotel' includes a refreshment room, a boarding house, a lodging house, a coffee house and a cafe;

(b) 'place' includes a house, a building, a tent, and a vessel;

(c) 'place of public entertainment' includes any place to which the public are admitted and in which an entertainment is provided or held.

*Explanation.*—'Entertainment' includes any exhibition, performance, game, sport and any other form of amusement;

(d) 'place of public worship' means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by,

persons professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein; and includes all lands and subsidiary shrines appurtenant or attached to any such place;

(e) 'shop' means any premises where goods are sold either wholesale or by retail or both wholesale and by retail and includes a laundry, a hair cutting saloon and any other place where services are rendered to customers.

\* \* \* \* \*

**3. Punishment for enforcing religious disabilities.**—Whoever on the ground only of "untouchability" prevents any person—

(a) from entering any place of public worship which is open to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(b) from worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring or watercourse, in the same manner and to the same extent as is permissible to other persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

*Explanation.*—For the purposes of this section and section 4, persons professing the Hindu religion in any of its forms or developments including Sikhs, Jains, Buddhists, Virashaivas, Lingayats, Adivasis and followers of the Brahmo, Prarthana or Arya Samaj, shall be deemed to profess the same religion.

**4. Punishment for enforcing social disabilities.**—Whoever on the ground only of "untouchability"—

\* \* \* \* \*

(a) enforces against any person any disability with regard to—

(i) access to any shop, public restaurant, hotel or place of public entertainment; or

(ii) the use of any utensils, and other articles kept in any public restaurant, hotel, *dharmshala*, *sarai* or *musafir-khana* for the use of the general public or of persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person; or

(iii) the practice of any profession or the carrying on of any occupation, trade or business; or

(iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water-tap or other watering place, or

any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person, have a right to use or have access to; or

(v) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public, or persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person; or

(vi) the enjoyment of any benefit under a charitable trust created for the benefit of the general public or of persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(vii) the use of, or access to, any public conveyance \* \* \*, or

(viii) the construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or

(ix) the use of any *dharmshala*, *sarai* or *musafirkhana* which is open to the general public, or to persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(x) the observance of any social or religious custom, usage or ceremony or taking part in any religious procession; or

(b) compels any person to dig a grave, or remove a carcass or beat *pariah* drums or convey the news of the death of any person;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### **5. Punishment for refusing to admit persons to hospitals, etc.—**

Whoever on the ground only of "untouchability"—

(a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel attached thereto, if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or

(b) does any act which discriminates against any such person after admission to any of the aforesaid institutions;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### **6. Punishment for refusing to sell goods or render services.—**

Whoever on the ground only of "untouchability" refuses to sell any

goods or refuses to render any service \* \* \* to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**7. Punishment for other offences arising out of "untouchability".—**

**(1) Whoever—**

(a) prevents any person from exercising any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution; or

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or

(c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practise "untouchability" in any form whatsoever;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

*Explanation.*—A person shall be deemed to boycott another person who—

(a) refuses to let to such other person or refuses to permit such other person, to use or occupy any house or land or refuses to deal with, work for hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms on which such things would be commonly done in the ordinary course of business; or

(b) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

**(2) Whoever—**

(i) denies to any person belonging to his community \* \* \* or any section thereof any right or privilege to which such person would be entitled as a member of such community \* \* \* or section, or

(ii) \* \* \* takes any part in the ex-communication \* \* \* of such person,

on the ground that such person has refused to practise "untouchability" or that such person has done any act in furtherance of the objects of this Act, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**8. Cancellation or suspension of licences in certain cases.**—When a person who is convicted of an offence under section 6 holds any licence under any law for the time being in force in respect of any

profession, trade, calling or employment in relation to which the offence is committed, the court trying the offence may, without prejudice to any other penalty to which such person may be liable under that section, direct that the licence shall stand cancelled or be suspended for such period as the court may deem fit, and every order of the court so cancelling or suspending a licence shall have effect as if it had been passed by the authority competent to cancel or suspend the licence under any such law.

*Explanation.*—In this section, 'licence' includes a permit or a permission.

**9. Resumption or suspension of grants made by Government.**—Where the manager or trustee of a place of public worship which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

**10. Abetment of offence.**—Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

**11. Enhanced penalty on subsequent conviction.**—Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment, shall, on every such subsequent conviction, be punishable with both imprisonment and fine.

**12. Presumption by courts in certain cases.**—Where any act constituting an offence under this Act is committed in relation to a member of a Scheduled Caste as defined in clause (24) of article 366 of the Constitution, the court shall presume, unless the contrary is proved, that such act was committed on the ground only of "untouchability".

**13. Limitation of jurisdiction of civil courts.**—(1) No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

(2) No court shall in adjudicating any matter or executing any decree or order recognise any custom or usage imposing any \*\*\*\* disability on any person on the ground only of "untouchability".

**14. Offences by companies.**—(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the

offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) 'company' means any body corporate and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

**15. Offences under the Act to be cognizable and compoundable.**—

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898)—

(a) every offence under this Act shall be cognizable; and

(b) every such offence may, with the permission of the court, be compounded.

**16. Act to override other laws.**—Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any court or other authority.

**17. Repeal.**—The enactments specified in the Schedule are hereby repealed. \*\*\*\*\*

## THE SCHEDULE

(See section 17)

1. The Bihar Harijan (Removal of Civil Disabilities) Act, 1949 (Bihar Act XIX of 1949).
2. The Bombay Harijan (Removal of Social Disabilities) Act, 1946 (Bombay Act X of 1947).
3. The Bombay Harijan Temple Entry Act, 1947 (Bombay Act XXXV of 1947).
4. The Central Provinces and Berar Scheduled Castes (Removal of Civil Disabilities) Act, 1947 (Central Provinces and Berar Act XXIV of 1947).
5. The Central Provinces and Berar Temple Entry Authorisation Act, 1947 (Central Provinces and Berar Act XLI of 1947).
6. The East Punjab (Removal of Religious and Social Disabilities) Act, 1948 (East Punjab Act XVI of 1948).
7. The Madras Removal of Civil Disabilities Act, 1938 (Madras Act XXI of 1938).

8. The Orissa Removal of Civil Disabilities Act, 1946 (Orissa Act XI of 1946).
9. The Orissa Temple Entry Authorisation Act, 1948 (Orissa Act XI of 1948).
10. The United Provinces Removal of Social Disabilities Act, 1947 (U.P. Act XIV of 1947).
11. The West Bengal Hindu Social Disabilities Removal Act, 1948 (West Bengal Act XXXVII of 1948).
12. The Hyderabad Harijan Temple Entry Regulation, 1358F (No. LV of 1358 Fasli).
13. The Hyderabad Harijan (Removal of Social Disabilities) Regulation, 1358F (No. LVI of 1358 Fasli).
14. The Madhya Bharat Harijan Ayogta Nivaran Vidhan, Samvat 2005 (Madhya Bharat Act No. 15 of 1949).
15. The Removal of Civil Disabilities Act, 1943 (Mysore Act XLII of 1943).
16. The Mysore Temple Entry Authorisation Act, 1948 (Mysore Act XIV of 1948).
17. The Saurashtra Harijan (Removal of Social Disabilities) Ordinance (No. XL of 1948).
18. The Travancore-Cochin Removal of Social Disabilities Act, 1125 (Travancore-Cochin Act VIII of 1125).
19. The Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950 (Travancore-Cochin Act XXVII of 1950).
20. The Coorg Scheduled Castes (Removal of Civil and Social Disabilities) Act, 1949 (Coorg Act I of 1949).
21. The Coorg Temple Entry Authorisation Act, 1949 (Coorg Act II of 1949).

M. N. KAUL,  
*Secretary.*



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EXTRAORDINARY

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## RAJYA SABHA

The following report of the Joint Committee of the Houses of the Parliament on the Bill to amend and codify the law relating to marriage and divorce among Hindus, was presented to the Rajya Sabha on the 26th November, 1954:—

### *Composition of the Joint Committee*

#### RAJYA SABHA

- |                                    |   |           |
|------------------------------------|---|-----------|
| 1. Shri C. C. Biswas*              | } | Chairman. |
| 2. Dr. P. V. Kane                  |   |           |
| 3. Shrimati Rukmini Devi Arundale  |   |           |
| 4. Dr. Raghu Vira                  |   |           |
| 5. Shri Indra Vidyavachaspati      |   |           |
| 6. Diwan Chaman Lall               |   |           |
| 7. Shrimati Maya Devi Chettry      |   |           |
| 8. Shrimati Chandravati Lakhanpal  |   |           |
| 9. Shri M. Govinda Reddy           |   |           |
| 10. Shri T. S. Pattabiraman        |   |           |
| 11. Shri Sham Sunder Narain Tankha |   |           |
| 12. Shri Surendra Mahanty          |   |           |
| 13. Shri K. Suryanarayana          |   |           |
| 14. Shri B. M. Gupte               |   |           |
| 15. Shri S. N. Mazumdar            |   |           |

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\*Resigned on 21st October 1954 due to ill-health.

## LOK SABHA

16. Shri N. Keshavaiah
17. Shri Gurmukh Singh Musafir
18. Shri Ranbir Singh Chaudhuri
19. Shri S. V. Ramaswamy
20. Shri Narendra P. Nathwani
21. Shri Jayantrao Ganpat Natawadkar
22. Shri Fulsinhji B. Dabhi
23. Shrimati Tarkeshwari Sinha
24. Pandit Dwarka Nath Tiwari
25. Shrimati Anasuyabai Kale
26. Shri H. C. Heda
27. Sardar Amar Singh Saigal
28. Shri Suriya Prasad
29. Shrimati Ila Pal Choudhuri
30. Shri Nibaran Chandra Laskar
31. Shri T. Sanganna
32. Pandit Sheo Narayan Fotedar
33. Shri Paidi Lakshmayya
34. Shri Ram Sahai Tiwari
35. Shri Panna Lal
36. Shrimati Uma Nehru
37. Shrimati Renu Chakravartty
38. Shri Bijoy Chandra Das
39. Shri Durga Charan Banerjee
40. Shri V. Veeraswamy
41. Her Highness Rajmata Kamalendu Mati Shah
42. Shri B. S. Murthy
43. Shri K. S. Raghavachari
44. Shri Nand Lal Sharma
45. Shri Digvijaya Narain Singh

Shri G. R. Rajagopal, Joint Secretary and Draftsman,  
Ministry of Law.

*Secretariat*

1. Shri P. N. Krishna Mani, Under Secretary, Rajya Sabha Secretariat.
2. Shri I. Krishna, Under Secretary, Rajya Sabha Secretariat.